

December 4, 2017

Mr. John P. Canoles  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, Maryland 21057

RE: Stella Maris, Building Addition and Parking Expansion,  
Forest Conservation Variance  
Tracking # 03-17-2587

Dear Mr. Canoles:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on October 17, 2017. A preliminary forest conservation plan (FCP)/variance plan was included with the application. The variance sought approval to relocate 6,500 square feet (SF) of recorded Forest Conservation Easement (FCE) and to remove four specimen trees within that FCE for the expansion of a parking lot and construction of stormwater management facilities associated with upgrades to the hospice building. On November 8, 2017, a revised request was received which sought the removal of a fifth specimen tree in addition to the earlier requested impacting of 6,500 SF of FCE. The revised FCP/variance plan included in the latest submission shows that two additional specimen trees will receive minor impacts not to exceed one third of their critical root zones and that impacts to those trees will be minimized through the use of tree protection fence. The plan also illustrates that 10,454 SF (0.24 acres) of forest will be conserved onsite to offset impacts to the existing FCE and the four specimen trees that are located within that easement. The fifth specimen tree to be impacted, an isolated 47.5" Tuliptree (*Liriodendron tulipifera*) in good condition, is to be mitigated by 15,246 SF (0.35 acres) of onsite planting adjacent to the relocated FCE. The total mitigation area of 0.59 acres will be recorded as a FCE in the Land Records of Baltimore County in conjunction with the amending of the existing development plan.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to expand the floor plan of the existing hospice care facility to provide for single occupancy rooms as well as enhance to administrative and rehabilitation areas at an institution that existed well prior to the effective date of the Forest Conservation Law. While the application of the law would provide a hardship, it does not deprive the petitioner of all use of the property and so this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The expansion of the long-standing health care institution as well as the locations and extent of existing specimen trees and FCE are due to unique circumstances associated with the facilities and the property rather than the general conditions in the neighborhood. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The expansion efforts will not result in a change in use of the property, and the building expansion and resultant relocation and expansion of the FCE are in the heart of the campus, in excess of 1,000 feet from the closest public road. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. In addition to the FCE, a Forest Buffer Easement (FBE) was also established to protect the stream systems onsite as part of the previous expansion. The protective covenants governing both the FCE and FBE are being honored, and overall the FCE will be enlarged once mitigation has been completed. Additionally, the proposed building and parking lot expansions will comply with current stormwater requirements. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Permitting the removal of five

specimen trees and the relocation of 6,500 SF of FCE in conjunction with an expansion of an existing health care institution that has complied with both the Forest Buffer Law and the Forest Conservation Law would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Prior to issuance of any Baltimore County permit, blaze orange high visibility fence shall be installed along the limit of disturbance (LOD) wherever the LOD is within 50 feet of any remaining specimen tree, Forest Conservation Easement, or Forest Buffer Easement. This protective fence shall be illustrated on the plan view and mentioned in the sequence of operations on both the sediment control and final Forest Conservation Plans.
2. The outer limits of the Forest Conservation Easement and/or Forest Buffer Easement shall be permanently posted at 100-foot intervals or at any turning point with "Forest Conservation-Do Not Disturb" signs, which are available from private sign contractors. The signs must be installed prior to issuance of any permits for the expansion project or by May 1, 2018, whichever comes first.
3. The following notes must appear on all subsequent plans for this project:
  - "A special variance was granted on November 28, 2017 to Baltimore County's Forest Conservation Law to allow permanent impacts to 6,500 square feet of FCE and five specimen trees onsite. Conditions were placed on this variance, including providing a joint retention and planting mitigation area of 0.59 acres and protecting the remaining specimen trees onsite."
  - "A special variance to Baltimore County's Forest Conservation Law may be required for future removal of any specimen trees within this property."
4. A final forest conservation plan, based on the variance plan that was received on November 8, 2017 and addressing the conditions of this variance as well as the requirements of Section 33-6-110, must be submitted to EPS and approved prior to grading and sediment control plan approval.

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5. Prior to grading permit approval, an Environment Agreement (EA) shall be signed, and a Forest Conservation implementation security based on 110% of the EIR-approved cost estimate shall be posted in accordance with the enclosed EA security policy.
6. As offered, the 6,500 SF Forest Conservation Easement (FCE) to be impacted shall be exchanged for the forested portion of the 15,246 SF future FCE. The exchange shall be completed via amendment or refinement of the Development Plan and Record Plat as well as the Deed Exchange Process, in accordance with the policies and procedures of both PAI Development Management and Real Estate Compliance by June 29, 2018.
7. This variance approval does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the appropriate representative sign the statement on the following page and return a signed copy of this entire letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/msk

Enclosure (1)

C. Marian Honeczy, Maryland DNR  
Jan Cook, Development Management, PAI  
LaChelle Imwiko, Real Estate Compliance, PAI

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I/we agree to the conditions enumerated in this approval letter to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Stella Maris Representative

Date

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Printed Name